

**"GROWTH PRODUCTS" PENALTY NARRATIVE:**

**Introductory Statement:**

The following explanation represents a preliminary EPA determination as to a possible penalty against "Growth Products" (including its successor(s)) for FIFRA violations; this determination has been based upon information concerning the company and its sales/distributions of pesticides that EPA has to date obtained. Therefore, notwithstanding any language to the contrary made in this narrative, the statements made below in this narrative are not necessarily final. This explanation has been prepared for settlement purposes only, and it not intended to be admissible in any FIFRA enforcement proceeding. Nor is it intended to bind EPA with regard to the determination and assessment of an appropriate civil penalty if any such proceeding were commenced.

To assist EPA in developing penalties for FIFRA violations, and to effect consistency among cases with various circumstances, EPA relies upon the guidance provided by the "FIFRA ENFORCEMENT POLICY: FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT," produced by the Waste and Chemical Enforcement Division of the Office of Civil Enforcement, Office of Enforcement and Compliance Assurance of the EPA, December 2009 (hereinafter referred to as the "ERP").

The penalty for this case is based upon an assessment of the violations EPA uncovered and evaluated following Agency inspections of Growth Products ("Respondent") in June 2016 and February 2018. A summary of these violations was provided in the February 19, 2019 letter from EPA to Respondent. The violations are divided into categories below based on the statutory violation. A penalty determination was made for three type of violations (each discussed separately below). For each of these violations, the following underlying parameters were operative:

- 1) Respondent was deemed to be a violator of [REDACTED] as defined in Section 136(e)(2), 7 U.S.C. § [REDACTED]; this factor is important in using the "Civil Penalty Matrix" of Table 2 on page [REDACTED] of the ERP;
- 2) Respondent was deemed to be within size [REDACTED] business category, which, as per Table I of the ERP (page 18), is a business with annual revenue between [REDACTED] and [REDACTED];
- 3) As noted below, for each type of violation a gravity-adjustment value of [REDACTED] was assigned; this was done using the "Gravity Adjustment Criteria" found in Appendix B of the ERP, page 34. This value constitutes the sum of four of the values listed in the chart on page 34: (a) for "Pesticide [Toxicity]" (in the column "Violation///Gravity of Harm"), the value [REDACTED] was assigned ([REDACTED]); (b) for "Harm to Human Health," the value [REDACTED] was assigned ([REDACTED]);